

REMARKS

Applicants have considered the outstanding official action. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

The outstanding rejections are as follows:

- (1) Claims 1-2, 4-13, 15-19, 24, 26 and 45-47 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,458,033 (Wierschke); and
- (2) Claims 12, 20-23 and 44 under 35 U.S.C. §103(a) as unpatentable over Wierschke in view of U.S. Patent No. 4,033,862 (Spencer).

Claim 1 is the only independent claim under the rejections set forth above. Independent claims 48, 49, 50 and 51 have been added. Claim 25 is currently withdrawn as being directed to a non-elected species. Claims 1, 48, 49, 50 and 51 are the same as presented to the Examiner at the interview on February 11, 2009. Favorable consideration of the claims is requested.

As to the rejections under 35 U.S.C. §102 and §103 based on Wierschke as the sole or primary reference of a combination respectively, the device of Wierschke is based on supporting the rolls preferably by suction, by means of

two pads 28, 27 which are positioned at a pre-set distance apart once the length of the logs have been determined. The pads 27, 28 are shifted one with respect to the other so that they are in phase with the first and last rolls of two different sets of rolls (i.e., two logs). The distance between the pads is such that the tail and head trims are not in contact with any pad and, thus, are not retained by the pads and fall out of the machine through gap 16. Since the distance between two pads 27, 28 can be larger than the distance between the last useful roll of a first series and the first useful roll of a second series of products, movable rails 15 are provided. The rails in one operating position support the rolls, i.e., when in the position where the pads 27, 28 are not present. When the trims are to be eliminated, the rails are pivoted apart, thereby removing support and allowing the trims to drop.

Independent claims 1 and 48-50 each clarify the positional relationship of the claimed elements and provide that the products are in contact with and supported by the contact members of the flexible member and by the longitudinally supporting element during elimination of the trimmings. This mechanical support is distinct from and simpler than the retention structure disclosed by Wierschke.

Further, independent claim 51 provides that the lower supporting element is stationary and bridges the input and output members. This is also in contradistinction to the teaching of Wierschke. Independent claims 48 and 49 have additionally incorporated the limitation of claims 46 and 45, respectively, and claim 50 has incorporated the limitations of both claims 45 and 46.

Accordingly, Wierschke does not teach each and every element of the claimed devices and, therefore, does not anticipate the claimed device within the meaning of 35 U.S.C. §102.

Further, as to the rejection based on Wierschke in combination with Spencer, Spencer is only relied on as to additional limitation concerning the structure of the mechanical fingers with respect to dependent claims. Accordingly, Spencer does not make up for the shortcomings of Wierschke. Wierschke does not provide any suggestion to modify the structure disclosed therein or in Spencer in order to achieve applicants' claimed device.

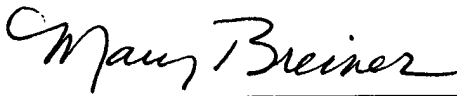
Withdrawal of the rejections under 35 U.S.C. §102(b) and §103(a), therefore, based on Wierschke alone or as the primary reference in combination with Spencer, respectively, is respectfully requested.

6575/USSN 10/541,874
Group Art Unit 3724

Reconsideration and allowance of the application
are respectfully urged.

Respectfully submitted,

ANGELO BENVENUTI ET AL

By 

Mary J. Breiner, Attorney
Registration No. 33,161
BREINER & BREINER, L.L.C.
P.O. Box 320160
Alexandria, Virginia 22320-0160

Telephone: (703) 684-6885